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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

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7 DONALD RICHARD CHILDS II,

8 Plaintiff,

Case No. 2:18-cv-00316-KJD-VCF

ORDER

9 v.

10 BOYD GAMING CORPORATION,

11 Defendant.

12 Presently before the Court is Plaintiff's Motion for Reconsideration (#31). Defendant
13 filed a response in opposition (#35) to which Plaintiff replied (#36).

14 I. Background and Analysis

15 On September 11, 2018, the Court granted Defendant's motion to dismiss Plaintiff's
16 complaint for failing to state a §1981 civil rights claim, denied as futile Plaintiff's motion for
17 leave to file an amended complaint, and granted leave to Plaintiff to file a new amended
18 complaint within twenty-one (21) days.¹ Plaintiff failed to file an amended complaint within
19 twenty-one (21) days. In fact, Plaintiff never filed an amended complaint, timely or not.

20 On November 7, 2018, Defendant filed a motion to dismiss (#26) pursuant to Federal
21 Rule of Civil Procedure ("Rule") 41(b), because the Court had granted Defendant's motion to
22 dismiss with leave to amend, but Plaintiff had failed to file an amended complaint. That same
23 day, November 7, the Court issued a minute order (#27) which explicitly warned Plaintiff that if
24 he failed to respond "**judgment may be entered against plaintiff and this lawsuit will end**
25 **without trial.**" Despite this warning and the ample amount of time given Plaintiff to file an
26 amended complaint, Plaintiff failed to respond in any way. He did not file an amended
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28 ¹ The Court also declined Defendant's request to convert the motion to dismiss into a
motion for summary judgment.

1 complaint, he did not respond to the new motion to dismiss, he did not seek any extensions of
2 time. On February 28, 2019, the Court granted (#29) the motion to dismiss for failure to state a
3 claim and for failure to file an amended complaint. Judgment (#30) was then entered.

4 On March 8, 2019, Plaintiff contemporaneously filed an appeal and the present motion
5 for reconsideration pursuant Rule 60(b). Plaintiff's sole contention is that the action should not
6 be dismissed because the Court never provided him with notice that his case would be dismissed
7 if he failed to respond to Court orders.

8 However, the Court has been more than fair in accommodating Plaintiff's *pro se* status. It
9 liberally construed his pleadings responding to the motion to dismiss. The Court granted Plaintiff
10 an additional twenty-one (21) days to file an amended complaint after it found that his proposed
11 amended complaint was deficient. After Defendant filed an additional motion to dismiss based
12 on Plaintiff's failure to file an amended complaint, the Court notified Plaintiff (#27) pursuant to
13 Klinge v. Eikenberry and Rand v. Rowland that if he failed to file points and authorities in
14 opposition to the motion to dismiss that his complaint would be dismissed, judgment would be
15 entered against him, and the case would not proceed to trial. The Court then gave Plaintiff an
16 additional one hundred and eleven (111) days to respond before finally dismissing Plaintiff's
17 complaint.

18 Accordingly, IT IS HEREBY ORDERED that Plaintiff's Motion for Reconsideration
19 (#31) is **DENIED**.

20 Dated this 23rd day of May, 2019.

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23 Kent J. Dawson
24 United States District Judge
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